

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KARL LOUIS AMMANN,	)	CASE NO. C07-1401-RSL
	)	
Plaintiff,	)	
	)	
v.	)	REPORT AND RECOMMENDATION
	)	
STEVEN THOMPSON, et al.,	)	
	)	
Defendants.	)	
_____	)	

On September 10, 2007, Plaintiff, who is proceeding pro se, submitted a proposed complaint pursuant to 42 U.S.C. § 1983, along with an application to proceed *in forma pauperis*. The Court screened the complaint pursuant to 28 U.S.C. § 1915A and upon noting deficiencies, the Court issued an Order on November 5, 2007, advising Plaintiff of the deficiencies and granting him leave to file an amended complaint that cured the deficiencies within thirty days. (Dkt. # 10.) The matter was dismissed on March 5, 2008, because no amended complaint had been filed. However, the Court subsequently vacated the order of dismissal based on notification from Plaintiff that he was deprived of his legal papers, that he had been on suicide/medical watch, and that he was unaware of the order granting him leave to amend his complaint. (See Dkt. # 17.)

01 In the order vacating dismissal, Plaintiff was directed to file an amended complaint curing  
02 the deficiencies previously identified in Dkt. # 10 within thirty days from the date of the order,  
03 making his amended complaint due by April 21, 2008. Plaintiff was also advised that if no  
04 amended complaint was timely filed, this matter would be dismissed. Plaintiff timely moved for  
05 an extension of time to file his amended complaint, and on April 21, 2008, the Court granted  
06 Plaintiff an extension of time until May 21, 2008, to file an amended complaint that corrected the  
07 deficiencies previously identified in Dkt. # 10. (Dkt. # 19.) Plaintiff was again warned that  
08 dismissal of this matter would be recommended if he failed to timely file an amended complaint.

09 After filing a notice of appeal of the Court's order granting his motion for extension of  
10 time (Dkt. #20), Plaintiff filed his amended § 1983 complaint on May 27, 2008. (Dkt. # 23.)  
11 However, Plaintiff's amended complaint does not cure the deficiencies identified in his original  
12 complaint.

13 Other than adding Snohomish County Corrections to the list of defendants in this action  
14 and including a request for immediate release with his prior request for damages, Plaintiff's  
15 amended complaint is virtually identical to his original complaint. In fact, as in his original  
16 complaint, Plaintiff's amended complaint refers the Court to the handwritten memorandum  
17 attached to the original complaint for a statement of his claims. (Dkt. # 23 at 3.) Moreover, to  
18 the extent that Plaintiff intends to challenge the fact of his current confinement, he is advised that  
19 a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is the exclusive federal remedy  
20 for a state prisoner who challenges the fact or duration of his confinement and seeks speedier or  
21 immediate release. *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973).

22 Accordingly, because Plaintiff's amended complaint fails to correct the deficiencies in his

01 original complaint that were identified in Dkt. # 10, the Court recommends that this action be  
02 dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief  
03 can be granted. A proposed order accompanies this Report and Recommendation.

04 DATED this 11th day of June, 2008.

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07 Mary Alice Theiler  
08 United States Magistrate Judge  
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